

LYNCH ICHIDA THOMPSON KIM & HIROTA

TIMOTHY J. HOGAN 5312-0
1132 Bishop Street, Suite 1405
Honolulu, Hawaii 96813
Tel. No. (808) 528-0100
Fax No. (808) 528-4997
E-mail: tjh@loio.com

Attorney for Plaintiff
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;	)	Civ. No. CV03 00385 SOM-LEK
	)	(Copyright)
Plaintiff,)	
	)	PLAINTIFF WAYNE BERRY'S
vs.	)	EX PARTE MOTION TO
	)	SHORTEN TIME ON PLAINTIFF
HAWAIIAN EXPRESS SERVICE,	)	WAYNE BERRY'S MOTION IN
INC., a California corporation; et al.	)	LIMINE TO EXCLUDE
	)	TESTIMONY OF JACK BORJA
	)	AND RALPH STUSSI;
	)	DECLARATION OF TIMOTHY J.
	)	HOGAN; EXHIBIT "A";
	)	(PROPOSED) ORDER GRANTING
	)	EX PARTE MOTION;
Defendants.	)	CERTIFICATE OF SERVICE
)	
	)	Non-Hearing.
)	
	)	JUDGE: Hon. Susan Oki Mollway
)	
)	

)
)
) TRIAL DATE: January 24, 2006
)

**PLAINTIFF WAYNE BERRY'S *EX PARTE* MOTION TO SHORTEN
TIME ON PLAINTIFF WAYNE BERRY'S MOTION IN LIMINE TO
EXCLUDE TESTIMONY OF
JACK BORJA AND RALPH STUSSI**

COMES NOW Plaintiff Wayne Berry, by and through his undersigned counsel and hereby respectfully moves *ex parte* for an order shortening time on a motion in limine to be heard on January 20, 2006 at 2:00 p.m. before the Honorable United States District Judge Susan Oki Mollway the time set by the Court for hearing motions in limine. This Motion is brought on the grounds that the final pre-trial statement submitted by the PCT and the Fleming employees, failed to list the two witnesses, Jack Borja and Ralph Stussi. In their final comprehensive naming of witnesses these defendants, for the first time, disclosed these witnesses as persons with relevant testimony in this proceeding. Their failure to raise it timely causes prejudice to Mr. Berry who requests that he be permitted to file a motion in limine that seeks an order prohibiting these undisclosed witnesses from testifying in this proceeding.

This Motion is brought pursuant to L.R. 6.5 and is supported by the Declaration of Timothy J. Hogan and the proposed Motion that is attached as Exhibit “A” and all the record of this case, all of which is incorporated by this reference. The PCT’s counsel has agreed to the shortening of time on this motion. Counsel for the Employee Defendants has not responded to counsel’s request to agree to stipulate to shortening time. This is the first request.

A proposed form of Order is submitted. In compliance with the General Order Adopting Electronic Case Filing Procedures, the Proposed Order will be submitted to Chambers via email.

Dated: Honolulu, Hawaii, January 4, 2006.

/S/Timothy J. Hogan
TIMOTHY J. HOGAN
Attorney for Plaintiff
WAYNE BERRY